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C O N F I D E N T I A L SECTION 01 OF 04 COLOMBO 001916

SIPDIS

DEPARTMENT FOR D, SA, SA/INS, S/CT, DS/DSS/ITA, DS/IP/NEA/SA
NSC FOR E. MILLARD

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TAGS: [PGOV](#) [PINS](#) [PREL](#) [ASEC](#) [SOCI](#) [CASC](#) [CE](#) [NO](#) [LTTE](#)

SUBJECT: President's moves place spotlight on deep
cohabitation divisions, raising worries re peace process

Refs: Colombo 1902, and previous

(U) Classified by Charge' d'Affaires James F. Entwistle.
Reasons 1.5 (b, d).

1. (C) SUMMARY: President Kumaratunga's dramatic November 4-5 moves against the UNP government have placed the spotlight on Sri Lanka's deep cohabitation divisions. The Constitution gives her office overwhelming executive powers. Without access to Parliament, which has been suspended, the Prime Minister has few tools at his disposal and he is on the defensive as the President tries to lure UNP MPs to her side. The government has leverage due to its popularity, however. In the meantime, the volatile situation in the south is clearly of great concern to the highly unpredictable Tigers. It seems that elections may be a way out of the current morass, but, while the situation in the south plays out, peace track moves seem set to be delayed even as the Tigers grow more restless. END SUMMARY.

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Constitution Favors President
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2. (C) President Kumaratunga's November 4-5 bombshell moves of firing ministers, suspending Parliament, and declaring an emergency have placed the spotlight on Sri Lanka's deep cohabitation divisions. (Note: Septel reviews the President's latest actions and reaction locally. Reftels review her November 4 actions.) Although Prime Minister Wickremesinghe has been the most dynamic political leader in the country since his United National Party (UNP) was elected to power in December 2001, it is the case that the Constitution gives the President's office overwhelming executive powers. According to the terms of the 1978 Constitution, the presidency holds the following powers:

-- The president is head of state, head of the government, and commander-in-chief.

-- The president has the power to nominate the prime minister and the cabinet.

-- The president also has the power to make definitive statements of governmental policy without consulting the prime minister or the cabinet of ministers.

-- The president can suspend (or "prorogue") Parliament for up to two months at a time.

-- The president can dissolve Parliament (after it sits for one year) and call for new elections.

-- The president has the power to declare a state of emergency.

3. (C) Moreover, if there are any questions about her powers under the Constitution, most observers believe the President can rely on the Supreme Court to bail her out. Most justices on the eleven member Supreme Court were chosen by the President and are considered her allies. In particular, Chief Justice Sarath Silva is considered to be very close to the president and to support a "maximalist" reading of her powers under the Constitution. For example, the President would seem to be able to rely on the Supreme Court to render an interpretation of the Constitution that allows her to suspend Parliament indefinitely, as long as she does so regularly in up to two month increments.

4. (C) The question of why the President did not use these powers until now is a complex one. Earlier in 2003, the President tried to take over the government-controlled National Lotteries Board, but was unsuccessful because the PM and his party pushed back. The President -- apparently not wanting to press the matter -- let it slide. Observers believe that she may have been waiting for what she considered the "right moment" to spring again into action against the PM. This moment may have appeared, in her eyes, with the PM

being out of the country (he is in Washington) and right after the Tamil Tigers came out with their controversial power-sharing proposals (See Reftels). The President may have also felt that recent recrudescence of UNP threats to impeach her and the Chief Justice were going too far and she had to react aggressively.

15. (SBU) (((Note: As background on how the confusing cohabitation situation first developed: Sri Lanka's 1978 Constitution was structured by the UNP, which was then in power, with the idea that the president and the PM would be from the same party. Except for a brief spell in 1994, it has worked out that way -- until recently. Due the following confluence of events, the situation changed:

-- Kumaratunga had been elected President in 1994, re-elected in late 1999, and is scheduled to leave office due to term limits in late 2005.

-- In December 2001, PM Wickremesinghe's UNP party won the parliamentary election, defeating President Kumaratunga's party.

-- With the UNP-controlled Parliament scheduled to be in place until 2006, the PM and the President are scheduled to serve concurrently from late 2001-late 2004. END NOTE.)))

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PM lacks ready Tools...
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16. (C) In the face of the President's high-level of authority under the Constitution, Prime Minister Wickremesinghe has very few tools at his disposal. One of the tools he might have had -- the majority he maintains in Parliament -- was effectively taken away from him when the President on November 4 suspended Parliament until mid-November. Without Parliament being in session, the PM does not have the ability to proceed with long-prepared plans to try to impeach the President and the Chief Justice on abuse of power charges. In addition, the PM may also have been able to rely on the popular support his government generally maintains to take matters to the streets to make Kumaratunga feel the heat. With the President's imposition of a state of emergency on November 5, however, no demonstrations or rallies or other political work can take place without the approval of the Interior Ministry, which is now under her control. Finally, while he maintains a slim majority in Parliament (though he probably can also rely on the 16 Tamil National Alliance MPs), the PM is on the defensive as the President tries to lure his MPs to her side by offering them various favors. Although the PM is considered popular in his party and is not abrasive, he is not known for being a hands-on manager and it is possible that some UNP MPs could be induced to cross-over because they feel he was not attentive enough to their needs.

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But has Leverage
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17. (C) Despite being hamstrung in so many ways, the PM and his UNP government still have leverage. As touched on, the government is generally quite popular due to its peace process and economic initiatives. It is believed to maintain very strong support not only in the business community, a traditional stronghold, but also among the public at large. Its strength in the Western Province, the most urbanized section of the country and where Colombo is located, seems to be overwhelming, as is its support in the Tamil community, which forms just under 20 percent of the total population. Christians, roughly 8 percent of the populace, are also believed to support Wickremesinghe's government quite strongly. Moreover, if the crisis drags on, the PM can probably count on his support from the public steadily increasing, with many Sri Lankans feeling that the President's actions of continuing to suspend Parliament and maintaining a state of emergency to be unreasonable in a democratic country. With all of this pressure falling on the President, she may be forced to either allow Parliament to go back in session or to call fresh elections. If she does not take either of these two routes, she could be courting widespread anger among the general public. This could result, sooner or later, in a confrontation between the President-led security forces in charge of implementing the emergency regulations and "people power" led by the PM.

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Peace Process at Risk
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18. (C) In the meantime, the confusing situation in the south forms a risk to the peace process. As reported in Septel, the Liberation Tigers of Tamil Eelam (LTTE) organization has already underscored its concern about the situation in the south, noting that the February 2002 ceasefire may be at risk. The group also appears to be pulling its political cadre from their offices in government-controlled areas of the north and east, and bringing them back to LTTE-controlled areas.

19. (C) These signals are serious ones, indicating that the LTTE is worried about what is going on in the south. They are also explainable by the fact that the LTTE is known to distrust President Kumaratunga in a bitter fashion -- the group went so far as to attempt to kill her in December 1999 (she lost an eye in the bomb attack). Any sign that she is increasing her strength in the south will set off alarm bells in LTTE circles. The LTTE, for its own reasons, has long associated Kumaratunga with Sinhalese Buddhist extremism, a force that the LTTE sees itself as waging a long war against. The President's declaration of a state of emergency on November 5 probably will only alarm the LTTE even more because it may well see that act as preparing the south for action against the LTTE (however unreasonable a view that may be). The fact that the President and her advisers have issued assurances that they intend to respect the ceasefire and support negotiations may not cut much ice with the LTTE.

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COMMENT
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10. (C) It appears that elections may be a way out of the current morass. There is speculation that the President aims eventually to call new parliamentary elections, perhaps thinking that her party would win. If that happens, the President and the PM would be from the same party, which would almost certainly put an end to cohabitation bickering (though it would raise the LTTE's level of concerns). Most observers do not believe that her party would win, however, but believe the UNP would come out on top and, in the process, quite possibly increase its majority. In short, Sri Lanka would be left in much the same cohabitation position as before the crisis began. At the same time, if the President managed to convince enough UNP MPs to defect so that she could form the government, the anger in the UNP would be severe and such an act might spark a backlash among the public over perceived crooked politics. In any case, while the situation in the south plays out, peace track moves seem set to be delayed even as the Tigers grow more restless. In sum, there does not seem an easy way out of the crisis triggered by the President's brazen moves. END COMMENT.

11. (U) Minimize considered.

ENTWISTLE